

1 BILL NO. S-82-09-26

2 SPECIAL ORDINANCE NO. S-179-82

3 AN ORDINANCE approving an Amendment  
4 to the Water Agreement with the  
5 City of New Haven, Indiana for an  
6 additional water line, in connection  
7 with the Board of Public Works.

8 WHEREAS, the City of Fort Wayne and the Town (now City)  
9 of New Haven, both of Allen County, Indiana entered into an  
10 Agreement on the 26th day of September, 1960 for the purchase  
11 of water by the City of New Haven from the City of Fort Wayne,  
12 all as more specifically set forth in said Agreement; and

13 WHEREAS, the City of Fort Wayne and the City of New  
14 Haven did on the 18th day of April, 1966 execute an Amendment  
15 to said Water Agreement dated September 26, 1960; and

16 WHEREAS, the City of New Haven is desirous of con-  
17 structing, at its expense, an additional water line and connecting  
18 same to a City of Fort Wayne feeder line for the purpose of  
19 servicing the area described in the prior Agreement and Amendment  
20 thereto with a reliable and assured source of water; and

21 WHEREAS, the City of New Haven has not violated any of  
22 the terms and conditions of the Agreement executed by the two  
23 cities on September 26, 1960 and amended on the 18th day of  
24 April, 1966, and the parties agree that said Agreement is in  
25 full force and effect.

26 NOW THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF  
27 THE CITY OF FORT WAYNE, INDIANA:

28 SECTION 1. That a certain Amendment to the Water  
29 Agreement dated September 26, 1960, between the City of Fort  
30 Wayne, Indiana, by and through its Mayor and the Board of Public  
31 Works and the City of New Haven, Indiana, by and through its  
32 Mayor and the Board of Public Works and Safety, said Amendment  
executed by the parties thereto on the 18th day of August, 1982

1 Page Two

2  
3 and the Fourth day of May, 1982, respectively, for:

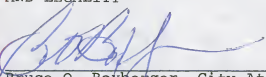
4 an additional water line and connection  
5 of same to a City of Fort Wayne feeder  
6 water line in the general location of  
7 the junction of Adams Center Road and  
8 Moeller Road in Adams Township, Allen  
County, Indiana constituting the City of  
New Haven's second metered connection  
point into the City of Fort Wayne feeder  
line;

9 involving a total cost to be paid by the City of New Haven, all  
10 as more particularly set forth in said Amendment, which is on  
11 file in the Office of the Board of Public Works of the City of  
12 Fort Wayne, and is by reference incorporated herein, made a part  
13 hereof, and is hereby in all things ratified, confirmed and  
14 approved. Two copies of said Amendment are on file with the  
15 Office of the City Clerk of the City of Fort Wayne and made  
16 available for public inspection, according to law.

17 SECTION 2. That this Ordinance shall be in full force  
18 and effect from and after its passage and any and all necessary  
19 approval by the Mayor.

20  
21   
22 Councilmember

23 APPROVED AS TO FORM  
24 AND LEGALITY

25   
26 Bruce O. Bokberger, City Attorney

Read the first time in full and on motion by Burns, seconded by Burns, and duly adopted, read the second time by title and referred to the Committee City Clerk (and the City Plan Commission for recommendation) and Public Hearing to be held after due legal notice, at the Council Chambers, City-County Building, Fort Wayne, Indiana, on \_\_\_\_\_, the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, at \_\_\_\_\_ o'clock \_\_\_\_\_ M., E.S.T.

DATE: 9-17-82

Charles W. Westerman  
CHARLES W. WESTERMAN - CITY CLERK

Read the third time in full and on motion by Burns, seconded by Burns, and duly adopted, placed on its passage. PASSED (~~Lost~~) by the following vote:

	<u>AYES</u>	<u>NAYS</u>	<u>ABSTAINED</u>	<u>ABSENT</u>	<u>TO-WIT:</u>
<u>TOTAL VOTES</u>	<u>9</u>	_____	_____	_____	_____
<u>BRADBURY</u>	<u>✓</u>	_____	_____	_____	_____
<u>BURNS</u>	<u>✓</u>	_____	_____	_____	_____
<u>EISBART</u>	<u>✓</u>	_____	_____	_____	_____
<u>GIAQUINTA</u>	<u>✓</u>	_____	_____	_____	_____
<u>SCHMIDT</u>	<u>✓</u>	_____	_____	_____	_____
<u>SCHOMBURG</u>	<u>✓</u>	_____	_____	_____	_____
<u>SCRUGGS</u>	<u>✓</u>	_____	_____	_____	_____
<u>STIER</u>	<u>✓</u>	_____	_____	_____	_____
<u>TALARICO</u>	<u>✓</u>	_____	_____	_____	_____

DATE: 9-28-82

Charles W. Westerman  
CHARLES W. WESTERMAN - CITY CLERK

Passed and adopted by the Common Council of the City of Fort Wayne, Indiana, as (ZONING MAP) (GENERAL) (ANNEXATION) (SPECIAL)

(APPROPRIATION) ORDINANCE (RESOLUTION) NO. S-179-82  
on the 28th day of September, 1982.

ATTEST:

(SEAL)

Charles W. Westerman  
CHARLES W. WESTERMAN - CITY CLERK

Samuel J. Talarico  
PRESIDING OFFICER

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on the 29th day of September, 1982, at the hour of 11:30 o'clock A. M., E.S.T.

Charles W. Westerman  
CHARLES W. WESTERMAN - CITY CLERK

Approved and signed by me this 4th day of October, 1982, at the hour of 10 o'clock A. M., E.S.T.

Win Moses, Jr.  
WIN MOSES, JR. - MAYOR

BILL NO. S-82-09-26

REPORT OF THE COMMITTEE ON CITY UTILITIES

WE, YOUR COMMITTEE ON City Utilities TO WHOM WAS REFERRED AN  
ORDINANCE approving an Amendment to the Water Agreement with the  
City of New Haven, Indiana for an additional water line, in  
connection with the Board of Public Works

HAVE HAD SAID ORDINANCE UNDER CONSIDERATION AND BEG LEAVE TO REPORT  
BACK TO THE COMMON COUNCIL THAT SAID ORDINANCE DO PASS.

PAUL M. BURNS - CHAIRMAN

MARK E. GIAQUINTA - VICE CHAIRMAN

JAMES S. STIER

JANET G. BRADBURY

ROY J. SCHOMBURG

9-28-82

CONCURRED IN

DATE

CHARLES W. WESTERMAN, CITY CLERK

AMENDMENT TO WATER AGREEMENT  
BY AND BETWEEN THE CITIES OF  
FORT WAYNE AND NEW HAVEN

WHEREAS the City of Fort Wayne and the Town (now City) of New Haven, both of Allen County, Indiana entered into an agreement on the 26th day of September, 1960 for the purchase of water by the City of New Haven from the City of Fort Wayne all as more specifically set forth in said agreement; and

WHEREAS the City of Fort Wayne and the City of New Haven did on the 18th day of April, 1966 execute an amendment to said water agreement dated September 26, 1960; and

WHEREAS the City of New Haven is desirous of constructing at its expense an additional water line and connecting the same to a City of Fort Wayne feeder water line in the vicinity of the Moeller and Adams Center Road which shall constitute its second metered connection point into the Fort Wayne feeder line for the purpose of servicing the area described in the prior agreement and amendment thereto with a reliable and assured source of water; and

WHEREAS the City of New Haven will be required to issue water works revenue bonds in an amount sufficient to pay for the costs of constructing the additional water line to connect to the City of Fort Wayne feeder water line in addition to other water works improvements that may be required; and

WHEREAS the City of New Haven has not violated any of the terms and conditions of the agreement executed by the two cities on September 26, 1960 as amended on the 18th day of April, 1966, and the parties agree that said agreement is in full force and effect as of the dates hereof.

NOW THEREFORE the City of Fort Wayne and the City of New Haven agree as follows:

1. Fort Wayne will furnish a master meter designed to allow a flow of water of 1,980 gallons per minute, at a pressure to satisfy New Haven's requirements at the point of connection to the "area", in the general location of the junction of Adams Center Road and Moeller Road in Adams Township, Allen County, Indiana.

Fort Wayne will sell and deliver to New Haven through said meter at the junction of the Adams Center Road and Moeller Road such quantities of City treated water as New Haven may require to service the "area". In any event, the combined maximum amount of water to be supplied through the two (2) connections in any twenty-four (24) hour period shall be three million (3,000,000) gallons.

2. New Haven will construct and pay for, and/or furnish, all additional water lines and facilities necessary to connect to the existing Fort Wayne feeder line in the vicinity of the Adams Center and Moeller Road, and New Haven agrees to pay for all water delivered to it at the two (2) connections made to the Fort Wayne feederlines in accordance with the schedule of rates for water service as adopted by the Common Council of the City of Fort Wayne and approved by the Public Service Commission of Indiana, and the Rules and Regulations of the Fort Wayne Water Utility, as amended from time to time and adopted by the Board of Public Works of the City of Fort Wayne.

3. Each party shall be considered the owner of that portion of the water facility to be constructed and/or furnished by it, and each party shall pay the cost of construction of whatever facilities are required by it to carry out the terms of this agreement, which cost shall include, but is not limited to the obtaining of easements and rights of ways, and each party shall be responsible for the proper maintenance of its own water facilities.

4. The City of Fort Wayne or its Water Works Department shall not be liable for any failure to deliver water as provided herein in case such failure is caused by strikes, acts of God, unavoidable accidents, or other contingencies beyond its control and without its fault.

5. This agreement shall be subject to ratification or approval by the Boards of Public Works, the Mayors and Common Councils of the City of Fort Wayne and the City of New Haven, and the Public Service Commission of Indiana, and upon securing of said ratification or approval the parties agree to forthwith proceed with the construction

and operation of the facilities necessary to carry out the terms of this agreement.

6. The entire agreement for the supply of water by the City of Fort Wayne and purchase thereof by the City of New Haven shall continue uninterruptedly for a period of 30 years after the date water is first furnished by Fort Wayne to New Haven at the additional connection to be made in the vicinity of the Adams Center and Moeller Road. At the end of said 30 year period this agreement for the supply and purchase of water shall continue uninterruptedly on a day to day basis provided, however, Fort Wayne reserves the option to renegotiate or terminate this agreement for the supplying of water to New Haven on a day to day basis after the expiration of said 30 year period, in the event the average daily pumping of water over any continuous six (6) months period (through the two (2) connections) computed either during said thirty (30) year period or thereafter, shall exceed a total of One Million Five Hundred Thousand (1,500,000) gallons per day. In the event notice of renegotiation is given under this clause, such negotiations shall begin forthwith. In the event notice of termination is given under this clause, the notice of termination shall be given at least three (3) years prior to the actual termination of the supply of water. In no event may or shall this agreement be terminated or renegotiated by the parties hereto within 30 years after the date water is first furnished by Fort Wayne to New Haven at the additional connection after approval hereof.

7. New Haven agrees that all future water facilities constructed by it in the "area" shall be in compliance with the minimum Fort Wayne Water Utility "Detailed Specifications and Conditions for the installation of Transmission and Distribution Mains", "Construction Standards" and "Water Main and Water Service Materials Standards" of the latest revision.

8. New Haven agrees to notify Fort Wayne in advance of the proposed service to be extended to a substantial user in the "area."

9. All of the terms and conditions of the agreement between the parties hereto dated September 26, 1960 as amended on April 18, 1966 and not amended by this agreement shall continue to be in full force and effect.



IN WITNESS WHEREOF, the parties hereto have set their hands and seals on the day and year as herein shown.

Approved and executed by the City of Fort Wayne on the 18th day of August, 1982.

ATTEST:

\_\_\_\_\_  
City Clerk  
(Seal)

ATTEST:

Sandra E. Kennedy  
Secretary to Board

CITY OF FORT WAYNE

By [Signature]  
Its Mayor

By [Signature]  
[Signature]

\_\_\_\_\_  
Its Board of Public Works

Approved as to form and legality:

[Signature]  
Attorney for the City of Fort  
Wayne, Allen County, Indiana

Approved and executed by the City of New Haven on the 4th day of

May, 1982.

ATTEST:

[Signature]  
Clerk-Treasurer

CITY OF NEW HAVEN

By [Signature]  
Its Mayor

By [Signature]

[Signature]

[Signature]  
Its Board of Public Works  
and Safety

Approved as to form and legality

[Signature]  
Attorney for the City of New  
Haven, Allen County, Indiana

APPROVED \_\_\_\_\_

(Date)

PUBLIC SERVICE COMMISSION OF THE  
STATE OF INDIANA

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_



TITLE OF ORDINANCE Amendment to Water Agreement

DEPARTMENT REQUESTING ORDINANCE Board of Public Works

SYNOPSIS OF ORDINANCE An amendment to Water Agreement dated 9-26-60 between the City of Fort Wayne, Indiana and the City of New Haven, Indiana for the purchase of water.

This amendment is for the construction of an additional water line and the connecting of it to the feeder water line.

EFFECT OF PASSAGE servicing the area described in the original agreement.

EFFECT OF NON-PASSAGE no source of water

MONEY INVOLVED (DIRECT COSTS, EXPENDITURE, SAVINGS) --

ASSIGNED TO COMMITTEE